

October 12, 2010

Mr. Don Gregory, State Medicaid Director
Department of Health and Hospitals
628 North 4th St.
P.O. Box 91030
Baton Rouge, LA 70821-9030
Attention: Allyson Lamy

Dear Mr. Gregory:

This letter is being sent as a companion to our approval of Louisiana State Plan Amendments (SPA) 09-016 and 09-031. The first SPA amends the rate for laboratory and radiology services and for services provided by End Stage Renal Disease facilities (ESRD). State plan amendment 09-031 modifies the rate for laboratory, portable radiation services and radiation therapy centers. Our review included an analysis of the entire contents of the submitted page, including the reimbursement methodology for freestanding mental health clinic services. Based on that review CMS has determined the freestanding clinic reimbursement methodology is not described comprehensively enough for us to determine that payment for these services complies with the clinic services upper payment limit (UPL) required in the regulations at 42 CFR 447.321.

Currently, the State plan indicates that it reimburses no more than a reasonable rate set by the State and that freestanding clinic services are reimbursed a fee for service rate that equals the professional rate for these services; however, it does not indicate whether payment is less than or equal to the amount that Medicare would reimburse for these services. Regulations at 42 CFR 447.321 require that payment for clinic services not exceed a reasonable estimate of the amount that Medicare would reimburse for these services.

Accordingly, the State must show that freestanding clinic services payment complies with the requirements of 42 CFR 447.321. Specifically, the State must submit a freestanding clinic services UPL demonstration. The State may combine all freestanding clinics, including mental health clinics, family planning clinics and radiation therapy centers in the UPL demonstration. To help you with this demonstration we have attached guidance and are available to work with the State.

Please respond to this letter within 90 days of its receipt with a corrective action plan describing how you will resolve the issues identified above. During the 90-day period, we are happy to provide any technical assistance that you need. State plans that are not in compliance with requirements at 42 CFR 447.321 are grounds for initiating a formal compliance process.

Page 2
Mr. Don Gregory

If you have any questions regarding this letter, please contact Cheryl Rupley at 214-767-6278 or Ford Blunt at 214-767-6381 by phone or by email at cheryl.rupley@cms.hhs.gov or ford.blunt@cms.hhs.gov.

Sincerely,

Bill Brooks
Associate Regional Administrator
Division of Medicaid and Children's Health Operations

Enclosure K: Clinic Cost Guidance/Clinic Cost Guidance UPL
 K: Clinic Cost Guidance/Clinic UPL question